IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRI. APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 789 OF 1988

The State of Maharashtra ... Appellant

V/s

1. Ramchandra Shankar Shinde
2. Laxman Shankar Shinde
3. Yashoda Shankar Shinde
4. Shankar Piraji Shinde ... Respondents
(Ori.Accused Nos.1 to 4)

Mr. B. H. Mehta, A.P.P. for the appellant State.

CORAM: R.M.S. KHANDEPARKAR &
P. V. KAKADE, JJ.
DATED: 24TH FEBRUARY, 2005.

ORAL JUDGMENT (Per Kakade, J.):

1. The State appellant have filed this appeal against the judgment and order passed by the Addl. Sessions Judge, Satara, dated 27.5.1988, whereby the original accused Nos. 1 to 4 are acquitted of the offence punishable under Sec. 306 of the I.P.C. By the same order, accused No.4 was also acquitted of offence under Sec. 498-A of the I.P.C. but accused Nos.1, 2 and 3 were convicted for offence punishable under Sec. 498-A of the I.P.C. Hence, the appeal is carried by the State only for acquittal of accused Nos. 1 to 4 for offence punishable uinder Sec. 306 of the I.P.C. It may also

be noted at this stage that, pending the appeal accused No.4 is reported dead and, therefore, the appeal abates against him.

2. The facts giving rise to the case in brief are -

Deceased Sindhu was wife of accused No.1. Accused No.2 is brother of accused No.1. Accused Nos. 3 and 4 are parents of accused Nos. 1 and 2. Sindhubai was married to accused No.1 on 10.7.1973. Accused No.1 was serving at Bombay since prior to his marriage. In the course of the marriage, dowry of Rs.1300/- was paid to accused No.1 as the financial condition of Sindhu's parents was quite precarious. Accused Nos. 2, 3 and 4 used to stay at village Kanher-khed, the original place of the family and Sindhu used to live with accused No.1 at Bombay for some time and at her marital home during remaining times. She used to reside alongwith accused Nos. 2, 3 and 4 at Kanher-khed. Two other brothers of accused No.1 were also serving in Bombay. Sindhu had a stye on her eyelid and the trouble used to worsen day-by-day and swelling of her stye used to cover her eye and, therefore, she was not in a position to see inspite of medical treatment and even operation of the stye. It is the case of the prosecution that the accused No.1 used

to ill-treat and assault Sindhu on the ground that she had stye on her eyelid and her parents did not give various articles demanded by them. This ill-treatment increased from time to time as a result of which she committed suicide on 12.2.1987. The prosecution case is to the effect that, during the course of her marital life, Sindhu used to make complaint to her parents as well as other relatives about the ill-treatment and also her sufference due to the ailment. The prosecution has alleged that the ill-treatment at the hands of the in-laws as well as their constant teasing to her due to eye problem finally driven her to commit suicide and hence the offence punishable under Sections 306 and 498-A of the I.P.C. came to be filed against the accused persons.

3. On 13.2.1987, PW-9 Gaikwad, P.S.I. registered the complaint of one Shrimant Maruti Yadav which was registered at C.R. No. 18/87 against the accused persons on which basis the investigation machinery swung into action and accused came to be arrested for the impugned offences. The inquest panchnama was made and dead body was sent for post-mortem examination. The incriminating articles seized in the course of the investigation were sent to C.A. for examination whose

report received and is part of the record. In the course of the investigation, statements of witnesses were recorded and on completion of the investigation, chargesheet was sent to the Court of law. The learned Magistrate committed the case to the Court of Sessions.

4. The learned Sessions Judge framed charges against the accused for the impugned offences to which they pleaded not guilty. The defence of the accused is that of total denial of any criminal liability. The prosecution led its evidence, on which basis the learned Trial Judge came to the conclusion that the prosecution had succeeded in establishing the fact that offence under Sec. 498-A was committed by accused Nos. 1, 2 and 3 only. Accused No.4 was acquitted of all the charges for want of evidence and all the accused persons were also acquitted of offence punishable under Sec. 306 of the I.P.C. Hence the present appeal.

5. We have heard the learned A.P.P. at length with whose help we have perused the entire evidence on record. The prosecution has relied upon the testimonies of in all 9 witnesses to bring home the guilt. As against this, the accused also examined the defence witnesses to support their version of defence. On

perusal of the entire evidence which consists of two sisters of deceased Sindhu i.e. PW-1 Usha and PW-2 Sajabai, it is clear that the entire evidence is aimed to highlight how she was ill-treated at the hands of accused persons. According to their evidence, it is seen that there used to constant quarrels between accused persons and Sindhu over trifle grounds. Similar is the version of PW-3 Asha who is neighbour of the accused persons at village Kanher-khed. In this regard, we must note that evidently Sindhu used to live with her husband at Bombay and only for some time she used to live at Kanher-khed and inspite of this position, the entire evidence is silent on the relationship between accused No.1 and Sindhu while they were staying at Bombay and the evidence only reflects their attitude while accused No.1 and Sindhu used to stay at Kanher-khed only for some time during the year. Be that as it may, the evidence of these three witnesses is not sufficient to show that there was certain overtact on the part of the accused persons so as to drive Sindhu to commit suicide on 12.2.1987.

In this regard, the testimony of PW-4 Krishnath assumes importance. He is 12 years old son of deceased as well as accused No.1 and has testified in this case.

According to him, accused Nos. 1, 2 and 3 used to beat his mother Sindhu as well as accused No.4 only used to abuse her. He has testified to the effect that, on the day of the incident there was quarrel in their house. The accused had quarreled with his mother. Earlier, there was quarrel between accused Nos. 1 and 2 over a bullock, as a result of which deceased Sindhu asked accused No.1 that they should return to Bombay, which enraged the accused No.1 and he beat her. Thereafter the witness and accused No.4 went to their land for agricultural activities. This is the only evidence which is available in order to show the proximity of the quarrel to the act committed by deceased i.e. suicide. However, in our considered view, the quarrel, according to son Krishnath, ensued not due to the reasons of any demands nor due to any other aspect but only when Sindhu asked accused No.1 that they should return to Bombay from Kanher-khed. In our view, the testimony of son Krishnath assumes importance for more than one reason. Firstly, it must be noted that he had no enmity against the accused persons as he is testifying against his father as well as other family members on one hand and had suffered loss due to death of his mother. Inspite fo this aspect, he had candidly stated the real reason of the quarrel between his father and mother. This, in

our view, would hardly be sufficient reason for Sindu to commit suicide. His evidence further shows that eye-ailment of Sindhu was worsening day-by-day and she was quite disturbed during her last six months from the said ailment. In all the probabilities, therefore, the reason which prompted her to commit suicide would be her worsening ailment and not any overtact on the part of the accused. Be that as it may, the fact remains that the prosecution evidence is conspicuously silent regarding the proximity of cause which drove Sindhu to commit suicide. In other words, the entire evidence on record, which is of the relatives of the accused persons as well as one neighbour Sindhu, is sufficient to bring home the guilt of offence under Sec. 498-A of the I.P.C. for which they are already punished and there is absolutely no evidence to convict the accused persons with the offence punishable under Sec. 306 of the I.P.C.

6. On perusal of the judgment of the lower Court, we find that the reasoning adopted and findings recorded by the learned Trial Judge on this aspect appears to be correct and, therefore, it would brook no interference in this appeal. In the result, the appeal fails and stands dismissed.

(R.M.S. Khandeparkar, J.)

(P.V. Kakade, J.)